

SB 14/Voter Identification



Thank you Mr. Chairman and Members.

Voter Fraud Exists in Texas

- The dangers of voter fraud has threatened the integrity of the electoral process for the entire history of the United States. And that threat continues to this day.
- Over the last couple of sessions, witnesses have testified that voter impersonation, in which people's IDs or voter-registration cards have been stolen and false votes had been cast in those persons' names, is not uncommon.
- Voter fraud has a substantial effect on elections because even a small amount of fraud could make the margin of difference in a close election.

Texas has a Legitimate Interest in Protecting Elections

- It is imperative that we PROTECT THE PUBLIC'S CONFIDENCE IN ELECTIONS BY DETERRING AND DETECTING VOTER FRAUD
- In upholding Indiana's photo-ID law, the US Supreme Court stated "confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic process and breeds distrust of

our government. Voters who fear their legitimate votes will be outweighed by fraudulent ones, will feel disenfranchised."

- An October 2010 Lighthouse Opinion Polling survey found that 86 percent of Texas voters - both Republicans & Democrats - favor voter-ID laws.

Compliance with US Supreme Court

- This bill is in compliance with the US Supreme Court decision which upheld the Indiana Voter ID legislation because it:
 - It deters and detects fraud
 - It protects public confidence in elections
 - It counts only eligible voters' votes
- It complies with the Supreme Court decision because it offsets burdens on voters by:
 - Providing access to free photo ID cards
 - Allowing for provisional ballots and absentee ballots
 - Ensuring that obtaining photo ID is no more inconvenient or burdensome than usual act of voting
 - Providing an exception for elderly voters

Current Law

- Current law provides that when a voter shows up to vote, he or she must show a valid voter registration card. If unable to do so, the voter may show a photo-id or other official mail from a governmental entity

utility bill, bank statement, government check, paycheck or other government document with name and address and sign an affidavit.

SB 14 -What it does

- SB 14 would require a voter to show a photo-ID except that people 70 or older on January 1, 2012, may continue to vote with just their voter registration card.
- Acceptable ID includes an unexpired card issued by DPS (for most this will be Texas Drivers License), a military ID, a passport, or a citizenship certificate with photo.
- Voters who cannot produce an acceptable form of photo identification will be allowed to cast a provisional ballot. That ballot will be counted if the voter returns within 6 days to show a photo id.
- It would provide statewide training and notification of the changes in required ID to vote.
- It would provide a free DPS issued ID to any registered voter who requests an ID card.

Conclusion

- Every fraudulent vote effectively steals a legitimate vote. Elections are too important to leave unprotected when the Legislature could take proactive steps to prevent fraud and protect our democracy.
- This legislation is not a radical concept. I am just asking that every

voter verify that "you are who you say you are" before casting a vote."

FILED-SB14

What are you trying to accomplish with this bill?

This bill will protect the public's confidence in elections by deterring and detecting in-person voter fraud.

Why is this bill different from the bill you filed last session?

We have had two additional years to see Photo ID working in other states and two additional years to see that voter fraud is still a problem. Only a true photo ID bill can deter and detect fraud at the polls and can protect the public's confidence in elections. Plus, I believe that Photo ID is simpler and less confusing for the voters.

Why only four forms of ID?

It is less confusing and simpler for both voters and election workers. Everyone knows what these forms of ID look like.

Why doesn't this bill phase-in over two election cycles?

The bill would not take effect until January 2012, and the bill requires education efforts by the counties and the Secretary of State. Also, 86 percent of voters support this change in law. That tells me that voters do not need a phase-in in order to be compliant with the law. Plus, we do allow for a provisional ballot to be cast and counted so voters have two opportunities to get their ballot cast.

Why is there an exemption for the elderly?

This provision was added as a compromise to several of my Democrat colleagues who asked that the elderly be exempt from the law.

Does the elderly exemption provide for two classes of voters?

I believe that there is a legitimate state interest in exempting certain elderly voters from the requirements of Photo ID just like we allow certain classes of voters to vote by mail.

How do you know there is fraud occurring?

Under current law, we do not have the tools necessary to stop fraudulent in-person voter fraud. In fact, in-person voter fraud may not even be

evident until AFTER the election has occurred. Also, we have heard from many witnesses over the last couple of sessions who have testified that voter impersonation, in which people's IDs or voter-registration cards have been stolen and false votes had been cast in those persons' names, is not uncommon.

Does this bill provide for free ID?

Yes. . . . let me turn over to *Senator Williams* to address ID issues.

Does this bill reduce minority turnout?

I think the bill will increase turnout among all voters. In fact in Georgia and Indiana, turnout was up in the election immediately following the implementation of Photo ID. I think *Senator Wentworth* has some information on those statistics and voter turnout studies.

Do we know the number of people on the voter registration roll that do not have a DL or SSN?

I will defer to the SOS and DPS representative to answer that question, but I am convinced that voters will have access to proper ID.

What is the impact on Voter ID on Hispanic/Black/poor?

I am convinced that voters will have access to proper ID. I can tell you that in Indiana - which has had voter ID for 3 election cycles - no individual voter has alleged that the Voter ID Law has prevented them from voting or inhibited their ability to vote in any way.

A survey of 2000 registered voters in Indiana, Maryland and Mississippi found that only 1.2 percent of total respondents lack government-issued photo identification (DL, passport, military ID). Fewer than three percent of the overall respondents could not produce documentation to prove their citizenship. Fewer than half a percent of those surveyed had neither photo ID nor citizenship documentation.

I think we will find similar results in Texas.

*** NO ID - 156,280 registered voters
NO ID/citizenship papers - 78,140 voters

How will the training/education program work?

Those decisions will be made by the SOS office. I think they are here as a resource witness.

SB 14 by Fraser (FILED)

Highlights

- Requires voters to show a photo ID, except that people 70 or older as of January 1, 2012, may continue to vote with just their voter registration card
- Acceptable photo ID includes an unexpired card issued by DPS (for most this will be driver's license), a military ID, a passport, or a citizenship certificate with photo
- Requires DPS to provide a free photo ID to any registered voter who requests an ID
- Allows a voter to cast a provisional ballot if he/she does not have a Photo ID and return within 6 days with Photo ID to have the ballot counted
- Requires SOS and voter registrars to educate the public and train election workers on the new requirements, including mailing notice to each voter and posting notice outside all polling places
- Increases criminal penalties for illegal voting (mandatory jail time)

Why I made the law stronger:

"When I filed SB 178 in November (and re-filed SB 14 this month), I decided that a true photo identification bill was a better solution than the bill I proposed last session.

"We've had two additional years to see Photo ID laws working in other states and two additional years to see that voter fraud is still a problem.

"Only a true photo id bill, can deter and detect fraud and can protect the public's confidence in elections. Plus, I believe it simpler and less confusing for the voters."

TALKING POINTS (82R)

I. THE THREAT OF FRAUD IS REAL

- Deceased voters, felons, duplicate registrations, and non-residents remain on voter rolls (*2007 State Auditor report found over 49,000 of these possible ineligible voters*)
- Fraudulent registration applications are rampant (*over 6,000 applications by non-citizens rejected in Harris County from 2004-2007, 2008 ACORN and 2010 Houston Votes registration scandals made national news*)
- Texas Election Administration Management (TEAM) system is improving, but continues to have accuracy problems
- Current election system is inadequate to catch in-person voting fraud

II. THIS BILL PROTECTS TEXAS VOTERS

- Deters and detects fraud
- Improves and modernizes election procedures
- Protects against fraud enabled by inaccurate registration rolls
- Counts only eligible voters' votes
- Protects public confidence in elections

(These points are taken directly from Supreme Court opinion describing Indiana's "legitimate state interests" in adopting photo ID)

III. THIS BILL REPRESENTS AN ATTEMPT TO ENSURE THAT EVERY ELIGIBLE VOTER CAN VOTE AND THAT ONLY LEGITIMATE VOTES ARE COUNTED

- Simplified bill requires photo ID
- includes exemption for voters over 70 and a procedure for counting provisional ballots
- Similar to Indiana and Georgia laws (which were both upheld by the federal authorities)
- Requires months of statewide voter education efforts before law takes effect

ENSURING COMPLIANCE WITH SUPREME COURT

I. LEGITIMATE STATE INTERESTS

- Deterring and detecting fraud
- Improving and modernizing election procedures
- Protecting against fraud enabled by inaccurate registration rolls
- Counting only eligible voters' votes
- Protecting public confidence in elections

II. MEASURES REQUIRED TO OFFSET BURDENS ON VOTERS

- Access to free photo ID cards
- Availability of provisional ballots and absentee ballots
- Ensure that obtaining ID is no more inconvenient or burdensome than usual act of voting

III. MEASURES RECOMMENDED TO OFFSET BURDENS ON VOTERS

- Phase-in over two election cycles (as prescribed by Carter-Baker Report)
- Exception for certain elderly voters (to decrease size of class of voters adversely impacted by law)

	INDIANA LAW	GEORGIA LAW	TEXAS - SB 14	TEXAS - CURRENT LAW
REQUIRED I.D.	<p>One photo ID:</p> <ul style="list-style-type: none"> state or federal ID that includes name, photo, and expiration date (specific forms of ID not provided) 	<p>One photo ID:</p> <ul style="list-style-type: none"> driver's license (even if expired) state or federal photo ID local, state, or federal govt employee photo ID U.S. passport military photo ID tribal photo ID 	<p>One photo ID:</p> <ul style="list-style-type: none"> DPS-issued ID that has not expired military photo ID citizenship certificate with photo U.S. passport 	<p>voter registration card</p> <p>- OR -</p> <p>sign affidavit at polls</p> <p>AND</p> <ul style="list-style-type: none"> DPS-issued ID (even if expired) any photo ID with name birth certificate citizenship papers U.S. passport govt-issued mail or document other ID prescribed by Sec of State
EXCEPTIONS TO PHOTO REQUIREMENT	<ul style="list-style-type: none"> indigent religious objection voters in state-licensed care facility 	none	none	(photo ID not required)
PROVISIONAL BALLOT	If no ID, voter may cast provisional ballot and may return within 10 days with ID for ballot to be counted.	If no ID, voter may cast provisional ballot and may return within 2 days with ID for ballot to be counted.	If no ID, voter may cast provisional ballot, and may return within 6 days with ID for ballot to be counted.	If no ID, voter may cast provisional ballot, and registrar must confirm eligibility within 7 days
REQUIRED VOTER EDUCATION	secretary of state conducts statewide education campaign for voters and poll workers	none	secretary of state conducts statewide education campaign for voters and poll workers	N/A

(The Indiana law was upheld by the Supreme Court and the Georgia law was upheld by the DOJ)

HIGHLY CONFIDENTIAL

TX_00009468

**VOTER ID BILL SUMMARY
SB14 (82R engrossed)**

SUMMARY

SB14 would give Texas arguably the strictest photo ID law in the country. A review of the US Supreme Court's approval of Indiana's photo ID law and the DOJ's approval of Georgia's photo ID law indicate that SB14 is likely to be upheld under both constitutional review and Section 5 Voting Rights Act review.

SB14 requires a voter to provide one of six acceptable photo IDs on election day (TX DL, DPS ID card, military ID, passport, citizenship certificate, or CHL), except that there is an opportunity to opt out of the photo ID requirement for people who are over age 70 when the law takes effect or who provide a signature affirming that they are disabled, indigent, or have a religious objection to being photographed and therefore cannot get a photo ID.

If a person does not have acceptable ID on election day, they may cast a provisional ballot and return to the voter registrar within six days with acceptable ID and have their ballot counted.

The criminal penalties for attempting to vote fraudulently are increased.

There are several provisions requiring training of poll workers and notice and education for the public in multiple languages and formats. The education and training efforts begin now, but the new ID requirements will not apply until the 2012 primary election. The Secretary of State has federal HAVA funds available to pay for the education and training efforts.

SUBSTANTIVE PROVISIONS

- A voter must present an acceptable photo ID on election day:
 - (1) TX DL (current or expired no more than 60 days)
 - (2) ID card issued by DPS (current or expired no more than 60 days) - *provided free if requested by a voter*
 - (3) military ID (current or expired no more than 60 days)
 - (4) US passport (current or expired no more than 60 days)
 - (5) US citizenship certificate
 - (6) CHL (current or expired no more than 60 days)
- *Exception #1:* a voter who is 70 or older on 01/01/12 need only present a voter registration card on election day
- *Exception #2:* a voter who is disabled and has provided a physician certification of the disability to the registrar and received a registration card marked "Photo ID not required" need only present the registration card on election day
- *Exception #3:* indigent people and people with religious objection to being photographed may cast a provisional ballot on election day and return to the registrar within 6 days to sign an affidavit confirming their exempt status

- The name on the ID must be "substantially similar" to the name on the voter list. If a person does not have acceptable ID on election day, they may cast a provisional ballot and return to the voter registrar within six days with acceptable ID and have their ballot counted.
- All election workers must be trained in the new ID requirements. The SOS and counties must provide education and notice in multiple languages to voters, including signs at polling places, written notice included with registration cards, written notice to voters attempting to use unacceptable ID, educational materials on the SOS website, and a statewide education campaign organized by the SOS.
- The criminal penalty for voting fraudulently is increased from a third degree felony to a second degree felony, and the penalty for attempting to fraudulently vote is increased from a Class A misdemeanor to a state jail felony.